

PROB. 12B
(7/93)

ORIGINAL
United States District Court
DISTRICT OF HAWAII

FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

MAY 22 2007

at 8:30 o'clock and 00 min AM
 SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
 with Consent of the Offender**
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: MANUEL G. RINCON,
 aka "Manny" and "Rico" Case Number: CR 01-00183DAE-03

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
 U.S. District Judge

Date of Original Sentence: 8/12/2002

Original Offense: Conspiracy to Possess With Intent to Distribute In Excess of One Kilogram of Heroin, in violation of 21 U.S.C. § 846, a Class A felony

Original Sentence: Seventy (70) months imprisonment to be followed by five (5) years of supervised release with the following special conditions:
 1) That the defendant shall participate in a substance abuse program, which may include drug and alcohol testing, at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; 3) That the defendant provide the Probation Office access to any requested financial information; and 4) That the defendant shall submit his or her person, residence, place of employment or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to a search pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/4/2006

PETITIONING THE COURT

- [X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	On 2/22/2007, the subject failed to provide a urine specimen.

The subject's term of supervised release commenced on 8/4/2006. The subject was referred to Drug Addiction Services of Hawaii, Hilo (DASH) for substance abuse counseling and testing. The subject has remained free of any positive drug tests. However, on 2/22/2007, the subject failed to appear for urine testing. Upon being questioned, the subject reported that he forgot to call the DASH recorder.

The subject has agreed to modify his conditions of supervised release to allow drug testing consistent with United States v. Stephens. The subject's extensive substance abuse history warrants the modification of this condition. The modified condition will enable our office to monitor the subject's future compliance once he completes substance abuse treatment.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections.

Respectfully submitted by,



MARK T. NUGENT
U.S. Probation Officer

Approved by:



PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 5/2/2007

THE COURT ORDERS:

- [X] The Modification of Conditions as Noted Above
[] Other



DAVID ALAN EZRA
U.S. District Judge

5-22-07

Date

05/01/2007 15:38 FAX

→ DASH HILO

002/002

PROB 49
(5/96)**United States District Court****District of Hawaii****Waiver of Hearing to Modify Conditions
of Probation/Supervised Release and/or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- [] To extend the term of supervision for years, for a total term of years.
 [X] To modify the conditions of supervision as follows:

- 5 *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).*

Witness: Brian Hyatt
 BRIAN HYATT
 Drug Addiction Services of Hawaii Counselor

Signed: Manuel Rincon
 MANUEL G. RINCON
 Supervised Releasee

5/4/07
 Date